

## REMARKS

Reconsideration of this application is respectfully requested.

Initially, the Applicants would like to thank the Examiner for the indication that claims 7-9 contain allowable subject matter.

However, in the Official Action, the Examiner rejects claims 1-6 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,824,509 to Yamaya et al., (hereinafter "Yamaya '509").

In response, Applicants respectfully traverse the Examiner's rejection under 35 U.S.C. § 102(e) for at least the reasons set forth below.

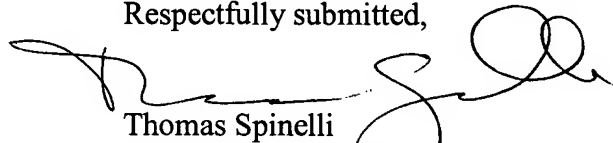
Enclosed herewith is a Declaration from the inventors of the present application, other than Haruhiko Ueno declaring that they are the inventors of the subject matter recited in independent claims 1-4 and that Mr. Ueno only contributed to the subject matter recited in one or more of the dependent claims, 5-9. Thus, the inventors of independent claims 1-4 of the present application are the same as the inventors of the Yamaya '509 cited against such claims.

Applicants respectfully submit that disclosure of a published or granted patent that occurred before applicants' application comes within the scope of §102(e) only if the description is not of applicants' own work (is by "another"). In re Katz, 215 USPQ 14, 18 (CCPA 1982). Because the enclosed Declaration has sufficiently established that the subject matter disclosed in Yamaya '509 is not work by "another" within the meaning of §102(e) with respect to independent claims 1-4, Applicants submit that Yamaya '509 is not prior art under §102(e) as to claims 1-4. As such, withdrawal of the rejection of claims 1-4 based on Yamaya '509 is respectfully requested. Thus, the Yamaya '509 reference is not by another with regard

to independent claims 1-4 and dependent claims 5 and 6 are at least allowable because they depend from an allowable base claim (claim 1).

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



Thomas Spinelli  
Registration No.: 39,533

Scully, Scott, Murphy & Presser, P.C.  
400 Garden City Plaza, Suite 300  
Garden City, New York 11530  
(516) 742-4343

TS:cm

Encl. (Executed Declaration Under 37 C.F.R. § 1.132)